

Remarks and Arguments

Claims 1-19 are pending in this application. Applicants note that new claims 11-19 were added in the amendment filed on November 14, 2005. These new claims do not appear to have been examined.

Claims 1 and 5 have been amended to particularly point out the invention. Support for these amendments is found in figures 2, 3, and 4.

Claims 1-10 stand rejected. Each of the rejections is addressed below.

35 U.S.C. § 102

1. The Anticipation Standard

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

2. Claims 1, 5 and 7

Claims 1, 5 and 7 stand rejected as allegedly anticipated by U.S. Patent No. 6,793,102 (hereinafter "Tan"). According to the Office, Tan discloses in figure 2 a fluid dispenser cartridge 4 that is installed on a dispensing apparatus 20 including a reservoir 52 with an inlet at 10 and an outlet at 8, a fill tube "assembly" having assembled parts 26, 36, 38 with 36 being a discharge port. The Office believes that the fill tube assembly is connected to the reservoir outlet 8 via gasket 16 and includes a means for gating gas pressure in valve 18 and a fill valve operatively engaged onto the fill tube assembly 26, 36, 38. Applicants believe the amendments to claims 1 and 5 obviate the rejection.

Applicants note that Tan does not disclose a fill valve operatively engaged onto the fill tube assembly wherein the fill valve is in direct fluid communication with the reservoir and is capable of controlling fluid flow from the reservoir into the fill tube as recited in claims 1 and 5. Claim 7 depends on claim 5. Tan does not disclose each and every element as set forth in the claims. Accordingly, it cannot anticipate the claims. Applicants respectfully request withdrawal of the rejection.

3. Claims 1, 2, 5, 6, and 8

Claims 1, 2, 5, 6, and 8 stand rejected as allegedly anticipated by U.S. Patent No. 5,464,127 (hereinafter “Burrows”). According to the Office Burrows discloses a fluid dispenser cartridge 10, which is installed on a dispensing apparatus 14 including a reservoir 20 with an inlet at the open top 80 wherein the open top inlet accepts fluid flowing out or 76 and a lower fluid outlet that connects to the fill tube with a discharge port and fill valve at 32 and a means for gating gas 98. Applicants believe the amendments to claims 1 and 5 obviate the rejection.

Applicants note that Burrows does not disclose a fill valve operatively engaged onto the fill tube assembly wherein the fill valve is in direct fluid communication with the reservoir and is capable of controlling fluid flow from the reservoir into the fill tube as recited in claims 1 and 5 as recited in claims 1 and 5. Claim 2 depends on claim 1. Claims 6 and 8 depend on claim 5. Moreover, Applicants note that Burrows does not disclose a fill tube assembly connected to said fluid reservoir at said fluid outlet such that fluid from said fluid reservoir can flow into said fill tube assembly during use of said cartridge in said apparatus, the fill tube assembly having a discharge port for dispensing fluid out of said fill tube assembly as recited in claims 1 and 5. Lastly, Applicants disagree with the Office’s characterization of 10 as a fluid dispenser cartridge. Burrows states: “As shown in the exemplary drawings, an improved actuator probe assembly referred to generally in Fig. 1 by the reference numeral 10 is provided for receiving and supporting an inverted water bottle 12 on water bottle station 14,” (column 3, lines 41-45). Applicants do not believe an actuator probe is the same as a fluid dispenser cartridge.

Burrows does not disclose each and every element as set forth in the claims. Accordingly, it cannot anticipate the claims. Applicants respectfully request withdrawal of the rejection.

35 U.S.C. § 103

1. The Prima Facie Standard

MPEP § 2143 provides the standard required to establish a prima facie case of obviousness. “First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in

the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references combined) must teach or suggest all the claim limitations."

The motivation to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not the applicant's disclosure. *In re Vaeck*, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991). The references must be considered as a whole and must suggest the desirability, and thus the obviousness of making the combination. *Hodosh v. Block Drug Col, Inc.*, 229 U.S.P.Q. 182, 187 n.5 (Fed. Cir. 1986); MPEP § 2141. The Patent and Trademark Office (PTO) bears the burden of initially establishing a *prima facie* case of obviousness. MPEP § 2142. The PTO has not met its burden in the instant case.

2. Claims 3 and 9

Claims 3 and 9 stand rejected under 35 U.S.C. § 103 as allegedly unpatentable over Burrows in view of U.S. Patent No. 6,554,881 (hereinafter "Healy"). According to the Office Burrows discloses a dispensing apparatus including a matte type vent filter substantially as claimed. The Office admits that Burrows does not disclose any specific material for the filter. The Office relies on Healy, which it alleges discloses a vent filter made of polyethylene fiber. Applicants respectfully traverse the rejection.

Applicants first note that claims 3 and 9 depend on claims 1 and 5, respectively, and further note that for the reasons set forth above regarding anticipation, Burrows does not teach or suggest each and every element of the claim. Healy does nothing to cure this defect. Because the combination of the cited references does not teach or suggest each claim element, claims 3 and 9 are not *prima facie* obvious over Burrows in light of Healy. Applicants respectfully request withdrawal of the rejection.

Claims 4 and 10

Claims 4 and 10 stand rejected under 35 U.S.C. § 103 as allegedly unpatentable over Burrows in view of U.S. Patent No. 6,073,812 (hereinafter "Wade"). According to the Office Burrows discloses a dispensing apparatus including a membrane type vent filter substantially as claimed. The Office admits that Burrows does not disclose any specific material for the filter. The Office relies on Wade which it alleges discloses a vent filter made of polytetrafluoroethylene.

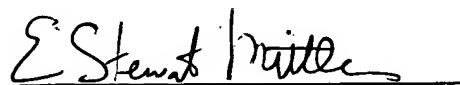
Applicants first note that claims 4 and 10 depend on claims 1 and 5, respectively, and further note that for the reasons set forth above regarding anticipation, Burrows does not teach or suggest each and every element of the claim. Wade does nothing to cure this defect. Because the combination of the cited references does not teach or suggest each claim element, claims 4 and 10 are not *prima facie* obvious over Burrows in light of Wade. Applicants respectfully request withdrawal of the rejection.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account.

Respectfully submitted



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